90-115

Supreme Court, U.S.
FILED
JUN 30 1990
JOSEPH F. SPANIOL, JR.
CLERK

NO.

IN THE SUPREME COURT
OF THE UNITED STATES

OCTOBER TERM, 1990

MICHELLE DONIA,

Petitioner

v.

CEREBRAL PALSY COLLINGSWOOD ACTIVITY CENTER, a/k/a CEREBRAL PALSY ADULT ACTIVITY CENTER and CORDAMORE, INC.,

Respondents

PETITION FOR WRIT OF CERTIORARI

To The Supreme Court Of New Jersey

Ronald DeSimone, Esquire
(Counsel of Record)
Mark S. Guralnick, Esq.
GARBER & GURALNICK
A Professional Corp.
1288 State Highway 73
Mount Laurel, N.J. 08054
(609) 722-9700

QUESTIONS PRESENTED

Did the Supreme Court of New Jersey err in denying an interlocutory appeal to the Plaintiff from the decision of the Superior Court of New Jersey, Appellate Division, denying an interlocutory appeal from a trial court ruling fining the Plaintiffs because of the choice of adjectives used by them in certifications filed with the court aimed at alerting the court to misconduct by the Defendants?

Was interlocutory relief warranted because the lower court's ruling affected the First Amendment rights of the Plaintiff and her lawyers and thus represented an infringement upon a fundamental right?

Did the New Jersey court deny the Plaintiffs procedural and/or substantive due process by sanctioning

the Plaintiffs for the choice of words used by them in pleadings filed on the basis of their earnest information, knowledge and belief?

Was the New Jersey court's "absolutely provable" standard for pleading acts of misconduct an arbitrary and overly restrictive standard, impeding Plaintiffs' rights of free speech and due process.[1]

---

[1] The parties to the proceeding in the Supreme Court of New Jersey were Michelle Donia, Plaintiff-Appellant, and Cerebral Palsy Collingswood Activity Center, a/k/a Cerebral Palsy Adult Activity Center and Cordamore Incorporated, Defendants-Respondents. Plaintiffs-Appellant was represented by Garber & Guralnick, A Professional Corporation, and Defendants-Respondents were represented by Brown & Connery, initially, and more recently by the Law Offices of F. Michael Dailey, Esquire.

TABLE OF CONTENTS

PAGE

QUESTIONS PRESENTED..... i

OPINIONS BELOW..... 1

JURISDICTIONAL STATEMENT..... 2

CONSTITUTIONAL PROVISIONS INVOLVED... 3

STATEMENT OF THE CASE..... 4

PRESERVATION OF FEDERAL QUESTIONS BELOW.....10

ARGUMENTS FOR GRANTING THE WRIT.....12

I. Speech Uttered In Good Faith Is Absolutely Privileged In a Court of Law.....14

II. The "Absolutely Provable" Standard of the New Jersey Court Limits Access to the Court And Arbitrarily Controls the Presentation of Evidence.....16

III. The Imposition of a $750.00 Fine For Using Strong Words In a Pleading Violates Due Process.....18

IV. The New Jersey Court Unconstitutionally Applied the Law in an Unfair and Unequal Manner.....19

CONCLUSION.....21

APPENDICES

APPENDIX A: Order of the Supreme Court of New Jersey, filed April 4, 1990, denying the interlocutory appeal of the sanction order.

APPENDIX B: Order of the Superior Court of New Jersey, Appellate Division, dated December 26, 1989, denying interlocutory appeal of trial court decision.

APPENDIX C: Order of the Superior Court of New Jersey, Law Division, per Theodore Z. Davis, J.S.C., dated November 17, 1989, denying Plaintiff's Motion for Reconsideration of the sanction order, and Judge Davis' Letter Opinion of October 11, 1989 containing the original order of sanctions.

TABLE OF AUTHORITIES

CASES — PAGE

Devlin v. Greiner, 147 N.J. Super. 446, 371 A.2d 380 (1977) 14

Genito v. Rabinowitz, 93 N.J. Super. 225, 225 A.2d 590 (App.Div. 1966) 14

Lal v. CBS, Inc., 726 F.2d 97 (3d Cir. 1984) 15

Piper v. Scher, 221 N.J. Super 54, 533 A.2d 974 (App.Div. 1987) 15

United States v. Anthony Grace and Sons, Inc., 384 U.S. 424 (1966) 4

United States v. Utah Construction and Mining Company, 384 U.S. 394 (1966) 4

Williamson v. Lee Optical Co., 348 U.S. 482 (1955) 19

CONSTITUTIONAL PROVISIONS

U.S. Constitution, Amend. 1 3
U.S. Constitution, Amend. 5 .....3, 11
U.S. Constitution, Amend. 14 .....3, 11, 20
N.J. Constitution, Art.1, Par.1 ...3, 11, 20

STATUTES

28 U.S.C. 1331..... 2
28 U.S.C. 2101(c)..... 2

COURT RULES

New Jersey Court Rules R. 1:4-8..... 16

MISCELLANEOUS AUTHORITIES

Prosser and Keeton on Torts,
5th ed. (1984)..... 14

OPINIONS BELOW

The opinion of the Supreme Court of New Jersey consists only of an Order filed April 4, 1990 denying Petitioner's Motion for Leave to Appeal an Interlocutory Order (App. A). The New Jersey Supreme Court's Order thus denied an earlier Order of the Superior Court of New Jersey, Appellate Division, refusing to hear an interlocutory appeal of the trial court decision (App. B). The trial court decision consists of the November 17, 1989 Order of the Honorable Theodore Z. Davis, of the Superior Court of New Jersey, Law Division, Camden County, denying Plaintiff's Motion for Reconsideration, based on the court's Letter Opinion of October 11, 1989 sanctioning the Plaintiffs for the words used by them in their pleadings

designed to report misconduct by the Defendants (App. C).

JURISDICTION

The Order of the Supreme Court of New Jersey was filed on April 4, 1990.

The jurisdiction of this Court is invoked under 28 U.S.C. 2101(c) and under 28 U.S.C. 1331.[2]

---

[2] The simple Order which the Petitioner seeks to have reviewed is not a final judgment. However, the Order does finally determine important rights at issue, namely the right of a state trial court to set limits on the choice of descriptive words to be used in pleadings and to sanction pleaders for exercising a right of free speech in court. Stated inversely, the Order finally determines the right of the Plaintiff (to plead freely and in an unfettered fashion) her argumentative position regarding misconduct by Defendants. The Order of the New

CONSTITUTIONAL PROVISIONS INVOLVED

The pertinent constitutional provisions are as follows:

United States Constitution Amendment 1

United States Constitution Amendment 5

United States Constitution Amendment 14

(Due Process Clause,

Equal Protection Clause)

New Jersey Constitution, 1947,

Article 1, Paragraph 1

---

2 (Continued)

Jersey trial court, effectively affirmed by the Supreme Court of New Jersey by its refusal to hear an interlocutory appeal, is essentially a final judgment as to Plaintiff's attorneys, who signed the pleadings in question, whose writing is the actual subject matter in dispute, and who ultimately have been fined for their choice of words. The jurisdictional statute does not contain any requirement of

STATEMENT OF THE CASE

New Jersey's Civil Practice Rules governing discovery are substantially similar to those rules in other states. Each party may propound interrogatories upon the other, and the answering party must thereupon file sworn answers or objections within the time period allowed by court rule. In the instant matter, a case involving the wrongful termination of the supervisor of a facility for disabled persons, Plaintiff

---

2 (continued)

finality, nor does such a limitation appear in this Court's applicable rules. Further, this Court's jurisdiction to review interlocutory orders on issues other than liability has been recognized by the decisions in U.S. v. Utah Construction and Mining Company, 384 U.S. 394 (1966) and U.S. v. Anthony Grace and Sons Inc., 384 U.S. 424 (1966).

admittedly became late in answering interrogatories propounded on her by the Defendants. Rather than attempting to resolve the matter professionaly and amicably, Defendants' lawyers filed a motion in the state civil court seeking to dismiss Plaintiff's Complaint for failure to answer interrogatories in a timely way.

Upon being served with this motion, counsel for the Plaintiff quickly made arrangements to file answers to the interrogatories. Counsel for the Defendant agreed to withdraw its motion to dismiss Plaintiff's Complaint provided that interrogatories were answered and served upon them prior to the hearing date on the motion. In reliance upon this arrangement, Plaintiffs served sworn answers to the interrogatories upon defense counsel and failed to appear at the hearing on the Motion to Dismiss.

Alarmingly, Defendants did not keep their word. They did not withdraw their Motion to Dismiss, and in fact, their Motion was heard and granted. The Superior Court of New Jersey, Law Divison, sitting in Camden County, dismissed Plaintiff's Complaint.

When Plaintiff and her counsel learned that the lawsuit was dismissed, a prompt motion was filed to reinstate the case. The Motion included the certifications signed by Plaintiff's lawyer and paralegal detailing the misrepresentations made by Defendant's attorneys that they would withdraw their Motion in exchange for service of the overdue interrogatories. Plaintiff's Motion for Reinstatement sought attorneys fees against defense counsel for what Plaintiff earnestly believed was misconduct by a member of the bar. Plaintiff's Affidavits charged that

Defendant's lawyers exercised bad faith and committed "abuse of process" and "trickery."

Responding to these charges, defense counsel craftily sidestepped the issue and filed a Cross-Motion seeking attorneys fees from the Plaintiff's counsel for using offensive words in his pleadings. In challenging the language used by Plaintiff's counsel, defense counsel accused Plaintiff's law firm of being inefficient and blasted Plaintiff's paralegal as "odd, effusive and abrasive."

Amidst this seemingly useless exchange of words, Judge Theodore Z. Davis of the Superior Court of New Jersey, Law Division, reinstated Plaintiff's lawsuit, but on October 11, 1989, issued a two-page letter Opinion condoning defense counsel's words,

disapproving of Plaintiff's counsel's words, and sanctioning the Plaintiff the sum of $750.00 (App. C). In his Opinion letter, Judge Davis purported to weigh the impact of adjectives, classifying Plaintiff's counsel's language as "lava-like" and analogizing it to an "eruption" while minimizing defense counsel's offensive words as a mere "hiss."

Judge Davis' unusual letter opinion furthermore purported to set a new standard for speech within the halls of justice. To wit, he announced that strong words like those used by Plaintiff's counsel herein "must never be offered to the Court in any certification unless absolutely provable..." In thus announcing this standard, the Lower Court implicated Plaintiff's First Amendment rights, and single-handedly altered the previous

standard for certifications which required that facts alleged in Court be done so honestly and on the basis of personal knowledge, information or belief.

Following the Court's Order of October 11, 1989 imposing sanctions, Plaintiffs filed a Motion for Reconsideration. That Motion was denied in an Order signed by Judge Davis and dated November 17, 1989 (App. C). On November 29, 1989, Plaintiff filed a Motion for Leave to Take an Interlocutory Appeal with the Superior Court of New Jersey, Appellate Division, sitting in Trenton. The Appellate Division, on December 26, 1989, per Judges Antell, Bilder and Ashbey, filed an Order denying Plaintiff's Motion for Leave to Appeal. Thereupon, Plaintiff filed a Motion with the Supreme Court of New Jersey, seeking leave to appeal the

Interlocutory Order. On April 4, 1990, the Supreme Court of New Jersey denied that Motion for an Appeal. It is from that April 4, 1990 Order that this petition for certiorari is brought.

PRESERVATION OF FEDERAL QUESTIONS BELOW

Since the initial motion for reconsideration presented to the trial court, Plaintiffs have preserved their constitutional challenges based on free speech and due process.

These federal questions were raised and preserved initially by brief filed with the trial court, then by a brief filed with the intermediary appellate court (Superior Court, Appellate Division) and then by a Brief filed with

the Supreme Court of New Jersey.[3]

The federal constitutional questions were timely and properly raised by the Plaintiff at every juncture of the prior Court proceedings. However, none of the federal constitutional questions were passed upon by any Court. At each juncture, summary orders--rather than

---

[3] In fact, Point VII of the Brief presented to the Supreme Court of New Jersey was entitled "Leave to Appeal the Interlocutory Order of the Appellate Division Should Be Granted in the Interest of Justice Because of the Crucial Constitutional Questions at Stake, and in Order to Facilitate a Fair Conclusion to the Underlying Dispute." That Brief addressed the First Amendment freedoms implicated in this case, the chilling effect, the absolute privilege governing speech in courtrooms, the procedural due process issues raised under the United States Constitution, Amendments V and XIV, and the New Jersey Constitution, Article I, paragraph 1 including the procedural and substantive due process questions associated with the confiscatory result of fining Plaintiff $750.00 because of speech in a pleading.

written opinions--were entered in this case, denying the Plaintiff relief on the constitutional questions.

ARGUMENTS FOR GRANTING THE WRIT

Although the interlocutory order under appeal involves a minor issue in the procedural chronology of the subject litigation, the extraordinary decision of the New Jersey court announces a far-reaching rule with potentially catastrophic consequences. Indeed, the New Jersey Court has sanctioned an attorney because he used strong words to characterize his opponent's conduct in failing to withdraw a Motion to Dismiss. These strong words were not uttered with any bad motive, nor were they asserted with knowledge of their falsity. Indeed, the only reason that these strong words were asserted was the

strong belief held by Plaintiff's counsel that the conduct of defense counsel was harrassing and unnecessary.

Civil litigants and lawyers in New Jersey cannot live with a system that limits the language they use in court, approves of some words yet disapproves of others, and, without warning, fines parties (or their lawyers) for overstepping the unknown limits of inoffensive pleading. The right of redress in the courts implies and includes an unfettered right to plead one's case, including the integral acts and events that occur during the discovery stage of litigation. Fining those who use tough words, or announcing an extraordinary standard requiring those words to be "absolutely provable," restrains free speech, infringes upon due process, and chills the robust debate, production of evidence and

exchange of facts which the court ought necessarily to hear and consider.

I. SPEECH UTTERED IN GOOD FAITH IS ABSOLUTELY PRIVILEGED IN A COURT OF LAW

Speech, including strongly worded allegations of misconduct, is absolutely privileged in our courts of law throughout the United States. See Prosser and Keeton on Torts, 5th ed., at 816 (1984). In fact, in New Jersey, there is a strong public policy favoring free expression in the judicial system, and the doctrine of absolute immunity with respect to statements made in the course of judicial proceedings is one that is firmly established. Devlin v. Greiner, 147 N.J. Super 446, 371 A.2d 380 (1977). The immunity applies to pleadings and other papers filed with the court. Genito v. Rabinowitz, 93 N.J. Super 225, 225 A.2d 590 (App.Div. 1966); Piper v. Scher, 221

N.J. Super 54, 533 A.2d 974 (App.Div. 1987).

While issues involving an absolute privilege frequently arise in the arena of defamation law, any punishment of speech uttered in the course of litigation automatically implicates First Amendment privileges and furthermore directly affects the rights of parties seeking redress in the courts. The privilege is deeply rooted in the common law, and is likewise followed by this court and the various circuits. See, e.g. Lal v. CBS, Inc., 726 F.2d 97 (3d Cir. 1984).

Whether the New Jersey court infringed upon the Plaintiff's First Amendment privilege to plead with freedom is an issue of tremendous constitutional importance, and this court's supervisory power is required to avoid further deferral of this issue.

II. THE "ABSOLUTELY PROVABLE" STANDARD OF THE NEW JERSEY COURT LIMITS ACCESS TO THE COURT AND ARBITRARILY CONTROLS THE PRESENTATION OF EVIDENCE

In its decision letter of October 11, 1989, the New Jersey court asserted that charges of misconduct like those alleged by Plaintiff's counsel should never be made unless they are "absolutely provable." This overstated, overbroad standard runs contrary to New Jersey pleading practice. In fact, New Jersey's own Court Rule, 1:4-8, requires that an attorney signing a pleading certify that he has read the pleading, and that to the best of his knowledge, information and belief, there are good grounds to support it. There is no state rule requiring a pleading to be "absolutely provable."

Moreover, and more importantly, requiring a pleading to be absolutely

provable automatically frustrates access to the courts by forcing those who have knowledge or information about an event or an act to first prove it before pleading it. Without first proving it, no act or event could logically ever be deemed absolutely provable and thus suitable for filing. This preposterous standard announced by the New Jersey court is more than merely semantical; indeed, it controls what speech will be acceptable (as qualifying as absolutely provable), and what speech will not be acceptable.

Not only does this extraordinary standard for pleading invade free speech, but it implicates procedural and substantive due process to the extent that evidence is not proffered by those who have only information or belief to support the evidence.

No court below ever responded to

this unusual standard offered by Judge Davis at the trial level, and it continues to be the standard in the instant case.

III. THE IMPOSITION OF A $750.00 FINE FOR USING STRONG WORDS IN A PLEADING VIOLATES DUE PROCESS

The New Jersey court sanctioned the Plaintiff (and her counsel) the sum of $750.00 without ever affording a plenary hearing on the issue. No witnesses ever testified as to the allegations before the court, nor was there any oral argument ever delivered on any legal issues. The court simply approved of defense counsel's wording, but disapproved of Plaintiff's counsel's wording, and for that reason, while making no additional finding whatsoever, the court chose to sanction Plaintiff's counsel. This confiscatory action was taken in the face of both state and

federal guarantees of due process.

Even beyond the obvious procedural flaws in the court's action, principals of substantive due process were offended in this case. There simply was no reasonable relationship between the sanction of $750.00 and some legitimate state purpose. Cf. Williamson v. Lee Optical Co., 348 U.S. 482 (1955).

IV. THE NEW JERSEY COURT UNCONSTITUTIONALLY APPLIED THE LAW IN AN UNFAIR AND UNEQUAL MANNER

The New Jersey Court's letter opinion of October 11, 1989, announcing the $750.00 sanction against the Plaintiff, appears to be quite concerned with the fact that the allegations were made by one lawyer against another lawyer. The obvious inference is that lawyers have less of a right to communicate freely than do their

client/litigants. Though the due process and equal protection guarantees of the federal and state constitutions are not coterminus in their spheres of protection, equality of right is fundamental in both, and each forbids class legislation arbitrarily discriminatory against some and favoring others in like circumstances. U.S.C.A. Const. Amend. 14; N.J. Const. 1947, Art. I, par. 1. No New Jersey court has articulated any reason why the pleadings of lawyers were treated with such scrutiny and discrimination. No court has set forth any disciplinary, ethical, or regulatory basis for controlling the speech of lawyers. Hence, the New Jersey court's penalization of the Plaintiff's law firm in this case may be baseless completely. Yet even if the court could articulate some reason for regulating the speech of lawyers, apart

from the speech of other pleaders, no legitimate policy consideration or material distinction between lawyer and non-lawyer would warrant a sanction against a lawyer who pleads with strong words.

We submit that, excluding an instance in which a lawyer knowingly perjures himself in a pleading, the First, Fifth and Fourteenth Amendments give him the right to plead as softly or as vociferously as he chooses to plead, provided that he does so on the basis of his truthful knowledge, information or belief.

The questions presented in this case are of great significance in the administration of the civil justice system in the State of New Jersey, and everywhere else. The significance is doubled by the fact that no state appellate court has acted to reverse--or

even to review--this intrusion upon basic constitutional rights. The serious questions of public policy involved here and the effect of the hasty decision below, if unreversed, upon the rights of litigants and their lawyers to speak and argue freely and boldly in their pleadings before any American Court makes this case an especially appropriate one for the exercise of this court's discretionary jurisdiction.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this Petition for a Writ of Certiorari should be granted.

GARBER & GURALNICK
A Professional Corporation
1288 State Highway 73
Mount Laurel, N.J. 08054
(609) 722-9700

By: _____
RONALD DESIMONE, Esquire
Counsel of Record
A Member of the Bar of
the Supreme Court of
the United States

By: _____
MARK S. GURALNICK, Esq.

Attorneys for the Petitioner

SUPREME COURT
OF NEW JERSEY
M-949 September Term
1989

MICHELLE DONIA,
Plaintiff-Movant

31,401

vs.

ORDER

CEREBRAL PALSY
COLLINGSWOOD
ACTIVITY CENTER, et al.,
Defendants-Respondents.

FILED
APR 4 1990
(Signature)
Clerk

This matter having been duly presented to the Court, it is ORDERED that the motion for leave to appeal is denied.

WITNESS, the Honorable Robert N. Wilnetz, Chief Justice, at Trenton, on this 30th day of march, 1990.

I certify that the foregoing is a true copy of the original on file in my office
(Signature)
Clerk of the Supreme Court
of New Jersey

(Signature)
Clerk of the
Supreme Court

APPENDIX A

AM-448-89T1

ORDER ON MOTION

MICHELLE DONIA

vs.

CEREBRAL PALSY COLLINGSWOOD ACTIVITY CENTER, ET AL.

SUPERIOR COURT
OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO.
AM-448-89T1
MOTION NO.
M-1798-89
BEFORE PART: A
JUDGE(S): ANIELL
BILDER
ASHBEY

MOTION FILED: NOVEMBER 29, 1989
ANSWER(S) FILED: DECEMBER 21, 1989
BY: CEREBRAL PALSY COLLINGSWOOD ACTIVITY CENTER, ETC.
SUBMITTED TO COURT: DECEMBER 18, 1989

O R D E R

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS ON THIS 21st DAY OF DECEMBER, 1989, HEREBY ORDERED AS FOLLOWS:

MOTION BY	GRANTED	DENIED	OTHER
MICHELLE DONIA FOR LEAVE TO APPEAL		XX	
SUPPLEMENTAL:			

FILED
APPELLATE DIVISION
DEC 26, 1989
(Signature) Clerk

FOR THE COURT:
(Signature)
MELVIN P. ANTELL
P.J.A.D.

I hereby certify that the foregoing is a true copy of the original on file in my office
(Signature) Clerk

APPENDIX B

GARBER & GURALNICK
Attorneys at Law
First Peoples Bank Building
1001 Pacilli Pl. & State Hwy. 73
Mount Laurel, New Jersey 08054
(609) 722-9700
Attorneys for: Plaintiff

Plaintiff, MICHELLE DONIA	SUPERIOR COURT OF NEW JERSEY CAMDEN COUNTY
v.	Docket No. L-01525-89
Defendant CEREBRAL PALSY COLLINGSWOOD ACTIVITY CENTER, a/k/a CEREBRAL PALSY ADULT ACTIVITY CENTER And CORDAMORE INC.	CIVIL ACTION ORDER

THIS MATTER having been opened to the Court on the Motion of Mark S. Guralnick, Esquire on behalf of the firm of Garber & Guralnick, seeking reconsideration of the Court's Order sanctioning counsel for $750.00 based on their earlier Motion to Reinstatement and counsel fees, and for a stay of the imposition of that sanction,

APPENDIX C

AND the Court having reviewed and considered the Certification of Counsel and the Brief submitted in support of the Motion, together with all of the papers preceding this matter, and on the basis of oral argument,

IT IS, therefore, this 17th day of November, 1989, ORDERED that the Motion of Plaintiff's counsel for reconsideration and a stay be and hereby is DENIED.

(Signature)

THEODORE Z. DAVIS, J.S.C.

SUPERIOR COURT OF NEW JERSEY
(Seal)

Chambers of
THEODORE Z. DAVIS
Judge

Camden County Hall
of Justice
5th & Mickle
Camden, NJ 08103
Suite 540

October 11, 1989

Jane A. Lorber, Esquire
Brown & Connary
360 Haddon Avenue
P.O. Box 539
Westmont, NJ 08108

Mark S. Guralnick, Esquire
Garber & Guralnick
First Peoples Bank Building
1288 State Highway 73
Mount Laurel, NJ 08054

Re: Donia v. Cerebral Palsy Collingswood Activity Center, et al.; Docket No. L-01525-89

Dear Counsel:

This matter started by the failure of counsel to answer interrogatories in a timely manner. R.4:17-4(b). This precipitated the imposition of sanctions under R. 4:23-5. This motion for dismissal was the requested sanction. This Court granted the motion without knowledge that there

existed some confusion on the part of counsel as to whether the movant was going to withdraw its motion. Out of this confusion there was emitted the lava-like allegations of "lying", "violations of cannons of ethics", "bad faith", "abuse of process" and "trickery". In response to this eruption, there was emitted a "hiss"; a manifestation of something relatively cool being place into juxtaposition with that which is extremely hot. In this case, the "hiss" was created by the use of words as "odd", "effusive" and "abrasive".

The former activity, even if without ill-will, was totally uncalled for, and must never be offered to the court in any certification unless absolutely provable; especially when one alleges that a colleague is unethical.

The respone to these vituperative comments were totally consistent with the level of professionalism this court expects from members of the bar, and no sanctions are warranted. The restraint shown in light of the charges is admirable.

With respect to the language used by Garber & Guralnick, and the allegations to which they refer, sanctions are warranted.

Counsel shall pay the sum of $750.00 within 10 days hereof to the firm of Brown & Connery. Brown & Connery is to submit an Order.

Cordially yours,

(Signature)

Theodore Z. Davis, J.S.C.

rb

CERTIFICATION OF SERVICE

The undersigned counsel of record on behalf of the Plaintiff-Petitioner MICHELLE DONIA hereby certifies that three true and correct copies of the Petition for Writ of Certiorari were served by First Class United States Mail, postage prepaid, upon F. Michael Dailey, Esquire, Attorney for the Defendants-Respondents, 61 Kresson Road, Cherry Hill, New Jersey 08034 by depositing them with the United States Post Office, Mount Laurel, New Jersey, on the 30th day of June 1990.

GARBER & GURALNICK
A Professional Corporation

By: _____
RONALD DESIMONE, ESQ.

By: _____
MARK S. GURALNICK, ESQ

DATED: June 30, 1990